

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Case No. 1:03-cr-291

Plaintiff,

Hon. Richard Alan Enslen

v.

TOBY T. STUDABAKER,

Defendant.

ORDER

This matter is before the Court on the Joint Motion for Ends of Justice Continuance pursuant to the Speedy Trial Act of 1974. 18 U.S.C. § 3161(h)(8). Currently, a final pretrial conference is scheduled for August 20, 2007 at 12:45 p.m. and jury trial is set to commence on September 11, 2007, at 8:30 a.m.

In support of the request for an ends-of-justice continuance the parties advise that Defendant currently has pending charges in the Eastern District of North Carolina for receipt and possession of child pornography. Defendant is interested in resolving those pending charges in this Court pursuant to Rule 20 of the Federal Rules of Criminal Procedure and a Rule 20 transfer has been initiated by the Government. The parties further advise that negotiations for a consolidated plea agreement are ongoing but require the participation of the United States Attorney's Office in the Eastern District of North Carolina. Also, defense counsel and the Government have not been able to review or evaluate the evidence in the out of state charges. Finally, defense counsel advises that due to the large amount of evidence in the Western District of Michigan case and the fact the offense conduct occurred in the United States, England, France and Germany, more time for reviewing this evidence is required.

Upon careful review, the Court finds that the ends-of-justice are best served by granting a continuance because the interests of the public and Defendant in seeing a speedy trial are outweighed by the equities set forth above. 18 U.S.C. § 3161(h)(8)(A). Specifically, the Court finds that otherwise denying Defendant's request would deprive him of an opportunity to consolidate the charges in this Court with those pending in North Carolina. 18 U.S.C. § 3161(h)(8)(B)(i). Further, this case is unusual and complex for the reason that the offense conduct occurred not only in the United States but foreign countries. 18 U.S.C. § 3161(h)(8)(B)(ii). The Court also notes that failure to grant this request would deny defense counsel the ability to adequately review the evidence in this matter and prepare an effective defense. 18 U.S.C. § 3161(h)(8)(B)(iv). The parties have requested a minimum continuance of 60 days in this matter; therefore, the Court will reschedule this matter not earlier than October 22, 2007. Accordingly,

IT IS HEREBY ORDERED that the Joint Motion For Ends of Justice Continuance (Dkt. No. 21) is **GRANTED**.

IT IS FURTHER ORDERED that the pretrial conference currently scheduled for August 20, 2007 is **ADJOURNED** and rescheduled to October 29, 2007 at 12:30 p.m.

IT IS FURTHER ORDERED that the jury trial currently scheduled for September 11, 2007 is **ADJOURNED** and rescheduled to November 6, 2007 at 8:30 a.m.

DATED in Kalamazoo, MI:
August 15, 2007

/s/ Richard Alan Enslen
RICHARD ALAN ENSLEN
SENIOR UNITED STATES DISTRICT JUDGE